

## **PART 2**

### **CONDITIONAL USES**

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#### **14-2-201 PURPOSE OF CONDITIONAL USE PROVISIONS**

Certain uses which may be harmonious under special conditions and in specific locations within a district, but may not be suitable and desirable in other locations, are classed as conditional uses within the various districts and require Conditional Use Permits for approval as authorized by the Planning Commission.

#### **14-2-202 PERMIT REQUIRED**

A Conditional Use Permit shall be required for all uses listed as conditional uses in the district regulations or elsewhere in this Ordinance. A Conditional Use Permit may be revoked upon failure of the original applicant or any successor, owner, or occupant to comply with conditions precedent to the original approval of the permit, or as otherwise provided in the Bountiful City Code.

#### **14-2-203 APPLICATION**

A Conditional Use Permit application shall be filed with the Planning Department as provided in this Ordinance. The completed application shall be submitted to the Planning Commission at one of their regularly scheduled meetings. The Planning Commission may authorize members of the Planning Department to grant or deny Conditional Use Permits, subject to such limitations or qualifications as are deemed necessary.

Applications for Conditional Use Permits shall be accompanied by: maps, drawings, statements, reports, studies, or other documents, as required by the Planning Commission and Planning staff.

#### **14-2-204 FEE**

The applications for any Conditional Use Permit shall be accompanied by an appropriate fee set by

the City Council.

#### **14-2-205 PUBLIC HEARINGS AND NOTICES**

The Planning Commission shall schedule and hold a hearing on any application for a Conditional Use Permit at the next regularly scheduled Planning Commission meeting upon submission of a properly completed and filed application form. Any appeals of a Planning Commission decision shall be held as a hearing before the City Council as provided by law.

Notices for such hearings shall be:

- A. Published in a newspaper of general circulation at least fourteen (14) days before the date of the hearing.
- B. Sent to all property owners within five hundred (500) feet radius around the subject property at least fourteen (14) days prior to the meeting.
- C. Posted with notification signage on the subject property by the applicant/agent. The signage shall be provided to the applicant/agent by the City and shall be posted by the applicant/agent ten (10) days in advance of the scheduled meeting. The City will inspect the property to verify the posting of the signage.

#### **14-2-206 DETERMINATION**

The Planning Commission may permit a conditional use to be located within any district in which the particular conditional use is permitted by the use regulations of this Ordinance. In authorizing any conditional use, the Planning Commission shall impose such requirements and conditions as are necessary for the protection of adjacent properties and the public welfare. The Planning Commission shall not authorize a Conditional Use Permit unless the evidence establishes:

- A. That the proposed use of the particular location is necessary or desirable to provide a service or facility which will contribute to the general well-being of the community and the neighborhood.
- B. That the proposed use will stress quality development with emphasis towards adequate buffering, landscaping, proper parking and traffic circulation, use of appropriate gradation of building height away from single-family districts and density to create privacy and compatibility with surrounding uses, use of building materials which are in harmony with the area, and impacts on schools, utilities and streets.
- C. That the applicant may be required to provide such reports and studies which will provide information relating to adequate utilities, traffic impacts, school impacts, soil and water target studies, engineering reports, financing availability, market considerations, neighborhood support, and other information which may be needed in order to render a proper decision.

#### **14-2-207 APPEALS OF DECISIONS**

Any person for which an application for approval of a Conditional Use Permit has been filed or any person who may be affected by the proposed use shall have the right to appeal the decision of the Planning Commission to the City Council. An appeal with accompanying reasons must be presented in writing within thirty (30) days after the date of decision of the Planning Commission to the City Council.

- A. The City Council shall notify the Planning Department of the date of said review in writing at least seven (7) days preceding said date set for hearing so that the Planning Department may prepare the record for said hearing.
- B. The City Council, after proper review of the decision of the Planning Commission, may affirm, reverse, alter or remand for further review and consideration any action taken by said Planning Commission and shall make such decision within thirty (30) days of the hearing of the appeal.

#### **14-2-208 INSPECTION**

Following the issuance of a Conditional Use Permit, the Planning Department shall approve an application for a building permit upon compliance of construction plans meeting such conditions and requirements as established by the Planning Commission. Representatives of the Planning Department shall inspect the project to insure that all required improvements meet the conditions of the Conditional Use Permit and this Ordinance before a certificate of occupancy is issued by the Engineering Department and before an application for permanent power for the property may be approved by the Bountiful City Power Department.

#### **14-2-209 REVOCATION**

- A. Upon receiving a written complaint alleging a violation or failure to comply with any condition prescribed in a Conditional Use Permit, the Planning Department shall investigate the complaint. If the complaint has merit, and attempts to remedy the complaint fail, the Planning Department:
  - 1. may place the complaint on the agenda of a regularly scheduled meeting of the Planning Commission, provided that the permittee shall have at least fourteen (14) days notice of the meeting.
  - 2. if the Conditional Use Permit was issued by the City Council upon appeal, request the complaint be placed on the earliest possible City Council agenda for review with the permittee having at least fourteen (14) days notice of the meeting.
- B. Permittee shall be given written notice by personal service or by certified mail of the exact nature of the complaint and the date and time of the hearing before the Planning Commission or City Council. An informal hearing to determine the current status of the Conditional Use Permit shall be held in accordance with customary administrative hearings and procedures. No notice to

surrounding owners will be required.

C. The Planning Commission or City Council, after hearing the evidence presented regarding the complaint, may continue the hearing from time to time, modify or rescind any condition or requirement of the Conditional Use Permit as it deems necessary, or take no action and dismiss the complaint.

D. If, after review at the informal hearing, the Planning Commission or City Council find that evidence of failure to comply with the provisions of the Conditional Use Permit is substantial enough to consider revocation, it shall schedule a formal hearing for purposes of considering revocation of the Conditional Use Permit. Notice to surrounding owners within five hundred (500) feet of the property will be required for the formal hearing.

E. The Planning Commission or City Council, after hearing final evidence and testimony on the status of the Conditional Use Permit, may revoke the Conditional Use Permit or modify the conditions as deemed necessary.

F. Any permittee aggrieved by an order entered by the Planning Commission may appeal such decision to the City Council by filing a written Notice of Appeal to the City Council within fifteen (15) days of decision by the Planning Commission. The City Council shall hold a second hearing to consider the appeal using the procedure described above in this Section.

G. Any permittee aggrieved by an order entered by the City Council may maintain an action for relief therefrom in any court of competent jurisdiction. Action for relief must be filed with the court within thirty (30) days after the order from which relief is sought is made.

H. This section shall apply to all Conditional Use Permits issued after the effective date of this Ordinance, regardless of change in ownership or occupancy.

#### **14-2-210 TIME LIMIT**

A. A temporary Conditional Use Permit for a use which is incidental or directly related to an intended permanent use or is intended to become a permanent use may be issued by the Planning Commission for a period of six (6) months. This permit may be renewed by the Planning Department for a total of three (3) successive six (6) month periods allowing a total of two (2) years for the temporary Conditional Use Permit. Where hardship or unusual circumstances exist, the Planning Commission may extend the temporary permit for one (1) additional year. These extensions shall be granted in two (2) separate six (6) month increments. A temporary Conditional Use Permit shall not be issued for a use which is not incidental to or directly related to an intended permanent use on the property.

Mobile offices, homes or trailers which are used for business purposes shall only be allowed for a six (6) month time period as authorized by the Planning Commission. The Planning Commission may extend the time period for the temporary structure up to one (1) additional year providing that plans for a permanent structure have received Planning Commission approval and construction has

commenced.

Temporary structures shall be removed from the property upon occupancy of the permanent structure. Premanufactured structures which meet all building code regulations and construction trailers shall be exempt from this regulation.

B. A temporary Conditional Use Occupancy Permit shall not be issued nor shall the building structure or other facility be occupied until all water, sewer and electrical permits have been issued and all appropriate inspections performed.

C. Unless there is substantial action under a Conditional Use Permit within a maximum period of one (1) year of its issuance, the Conditional Use Permit shall expire. The Planning Commission may grant a maximum extension of six (6) months, when deemed in the public interest. Substantial action under this section shall mean the footings and foundation of the main building are in place.

#### **14-2-211 REAPPLICATION AFTER DENIAL OR REVOCATION**

Denial of an application for or revocation of a Conditional Use Permit regarding any parcel of property shall prohibit the filing of another application for a Conditional Use Permit for the same parcel of property or any portion thereof, within one (1) year of the date of the final denial of the application or revocation of the permit unless the Planning Commission finds that there has been a substantial change in the circumstances or sufficient new evidence as submitted by the applicant in writing since the denial of the previous application to merit consideration of a second application within the one (1) year time period.

#### **14-2-212 CONTINUING EFFECT**

A Conditional Use Permit, once approved, affects real property regardless of change in ownership and all subsequent owners are subject to those conditions so long as that conditional use is being conducted on the property. The conditional use may be conducted either intermittently or continuously, provided, however, that if the conditional use becomes a legal nonconforming use due to a later amendment to this Ordinance, the provisions of Part 4 of this Chapter relating to nonconforming buildings and uses shall apply.

